

15-3424-cv

*Thomas v. TXX Servs., Inc.*

**UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

**ORDER**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 30<sup>th</sup> day of November, two thousand sixteen.

PRESENT: DENNY CHIN,  
SUSAN L. CARNEY,  
*Circuit Judges,*  
BRIAN M. COGAN,  
*District Judge.\**

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CECIL THOMAS, individually and on behalf of all  
others similarly situated, JOHN DEAN, individually  
and on behalf of all others similarly situated,  
*Plaintiffs-Appellants,*

MUHAMMAD ASIF, NARESH BOORANI, MARK  
BOURNE, EDGAR CAMPOS, JOSE H. CANCELA,  
CUSH RACK CUNNINGHAM, SOLOMON  
DESNOES, OSCAR F. GONZALEZ, JAMES  
CORNELIUS GRANT, DONALD HENDRICKS,  
CARL HENRY, KORHAN KIZIL, DERELL LEWIS,  
WINSTON LINDSAY, ROSA MARIN, GONZALO  
V. MORALES, ANITA MOROCHO, PATRICIA E.  
MUNOZ, VICTOR A. OGUNBEDEDE, ALMA D.  
POPOCOL, ANDREW THOMPSON, IAN GEORGE  
THOMPSON, IREAL B. WADADA, COURTNEY  
SMITH, NICHOLAS BARATTA, IBRAHIM  
TAKANE, MARLON OLIVEIRA, MANUEL A.  
MIRANDA, BRANNE GONZALEZ, HAMILTON

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\* Judge Brian M. Cogan, United States District Court for the Eastern District of New York, sitting by designation.

VASCO, WUILINTON MEJIA, DIOGENES A.  
GARCIA, AUDRE MAURICE HOLMES, HECTOR  
RODOLFO MARTINE ANDRADE, LAMONTE  
DAVID DEFRECCE, JOSEPH MORRIS, RUPPERTO  
PIZZO, TERENCE TOMLIN, LIONEL SMITH, LUIS  
D. FLORES, ISIDORO D. DIZON, JR., ERNST  
DENIZARD, OSCAR RODRIGUEZ, GERMAN A.  
MORAN RIOS, TEJDHARI RAGHUBIR, THOMAS J.  
GARGER, BORIS BABA EW, ADRIANA  
ORTELLADO, DENIZHAN OZTURK, ALEJANDRO  
SOLIS, HECTOR R. MARTINEZ, JOSE E. PICO,  
JOSE PLUTARCO PICO-ALVIA, DAISY E.  
ALVANADO, KARL DONOVAN BUCKLE, WON S.  
HAN, ABRAHIEM MOHAMAD, DEXTER C.  
ALEXANDER, LESTER ALEXANDER, LUIS  
XAVIER VILLALVA, ROBERT PERDUE, HARPAL  
SAWHNEY, EDUARDO FERNANDEZ, STEPHEN  
ANTHONY JOHN, MUHAMMAD ASHIQ,  
KONSTANTINOS VASILIOU, RICHARD S.  
ARMSTRONG, TYRONE DAVIS, ELWOOD  
CHAPMAN, OLIVER JACQUES SIMON, DEGOU  
GEORGE PAUL, HECTOR R. MARTINEZ,

*Plaintiffs,*

v.

15-3424-cv

TXX SERVICES, INC., PATRICIA DOUGAN HUNT,  
*Defendants-Appellees.*

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FOR PLAINTIFFS-APPELLANTS:

Denise A. Schulman, D. Maimon  
Kirschenbaum, Joseph & Kirschenbaum LLP,  
New York, New York.

FOR DEFENDANTS-APPELLEES:

Jeffrey W. Pagano, Ira M. Saxe, Crowell &  
Moring LLP, New York, New York, *and* Edwin  
G. Schallert, John Gleeson, Debevoise &  
Plimpton LLP, New York, New York.

On October 25, 2016, we entered a summary order vacating the district court's judgment and remanding the case for further proceedings. Defendants-appellees thereafter petitioned for rehearing.

The petition for rehearing is denied. Defendants argue, in the alternative, that we should affirm summary judgment as to the individual defendant, Patricia Dougan Hunt, because, in their view, plaintiffs have not presented any evidence concerning her involvement in the actions on which they base their claims. The district court, however, having granted summary judgment to all defendants on other grounds, did not address this argument as to Hunt.

We therefore clarify that our decision to vacate the district court's award of summary judgment as to all defendants is without prejudice to Hunt's renewal of her motion for summary judgment in the district court after remand, on the grounds argued on appeal or other grounds not already raised.

FOR THE COURT:  
Catherine O'Hagan Wolfe, Clerk

A circular official seal of the United States Court of Appeals for the Second Circuit is stamped over the signature. The seal contains the text "UNITED STATES", "SECOND CIRCUIT", and "COURT OF APPEALS".